

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

| | | |
|---|--------|-----------------------------------|
| IBUKUN OLOWA WASHINGTON, #1941101, | § § | |
| | | Plaintiff, |
| | § § | |
| v. | § § | USDC No. 3:16-CV-1374-M-BK |
| | | USCA No. 18-10039 |
| MICHAEL R. MACKEY, Warden, et al., | § § | |
| | | Defendants. |

**RECOMMENDATION REGARDING
IN FORMA PAUPERIS STATUS ON APPEAL**

Before the Court is Plaintiff's January 8, 2018 motion to proceed *in forma pauperis* on appeal. Doc. 89. Upon consideration of the motion, the relevant portions of the record, and the applicable law, it is recommended that the motion to proceed *in forma pauperis* on appeal be **DENIED**. It is further recommended that, pursuant to FED. R. APP. P. 24(a) and 28 U.S.C. § 1915(a)(3), the Court certify that Plaintiff's appeal is not taken in good faith. In light of the Court's December 18, 2017 order accepting the findings conclusions and recommendation and denying Plaintiff's second motion for temporary restraining order [Doc. 84; Doc. 82], there are no non-frivolous issues for appeal in this case. *See Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983) (an appeal is not taken in good faith when it fails to present non-frivolous issues).

Although this appeal should be certified as not taken in good faith under 28 U.S.C. § 1915(a)(3) and FED. R. APP. P. 24(a)(3), the plaintiff may challenge this finding by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of Court, U.S. Court of Appeals for the Fifth Circuit, within 30 days of the District Court's Order.

The cost of filing a motion to proceed on appeal in the Court of Appeals for the Fifth Circuit is calculated below, and if the plaintiff moves to proceed on appeal *in forma pauperis*, prison

authorities should be directed to collect the fees as calculated in this order pursuant to 28 U.S.C. § 1915(b)(1) & (2).

- (X) The plaintiff should be assessed an initial partial appellate fee of \$ 1.00.
- () The plaintiff is not assessed an initial partial appellate fee.
- (X) Thereafter, the plaintiff should pay \$ 504.00, the balance of the \$505.00 appellate filing fee, in periodic installments.

SIGNED, January 31, 2018.



RENEE HARRIS TOLIVER
UNITED STATES MAGISTRATE JUDGE